

**ASSEMBLY BILL**

**No. 2295**

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**Introduced by Assembly Member De La Torre**

February 18, 2010

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An act to amend Sections 815 and 816 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2295, as introduced, De La Torre. Insurance.

Existing law provides for the regulation of insurers by the Department of Insurance and prohibits an insurer from paying a person given discretion as to the settlement of claims under an insurance policy a compensation that is contingent on the amount of the settlement of those claims, except as otherwise provided.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 815 of the Insurance Code is amended  
2     to read:  
3     815. ~~No~~ *An insurer shall not pay any a* representative given  
4     discretion as to the settlement or adjustment of claims under life  
5     or disability policies, whether in direct negotiation with the  
6     claimant or in supervision of the person negotiating, a  
7     compensation ~~which~~ *that is* in any way ~~is~~ contingent upon the  
8     amount of settlement of ~~such~~ *those* claims.

1 SEC. 2. Section 816 of the Insurance Code is amended to read:  
2 816. ~~No~~*An* insurer shall *not* pay ~~any~~ *a* person given discretion  
3 as to settlement of claims under ~~any~~ *a* policy of insurance, or surety  
4 bond, whether in direct negotiation with the claimant or in  
5 supervision of the person negotiating, a compensation ~~which~~ *that*  
6 *is* in any way ~~is~~ contingent upon the amount of settlement of ~~such~~  
7 *those* claims, except as ~~in this section~~ otherwise expressly provided  
8 *in this section*.

9 This section shall apply equally to a single claim, a number of  
10 specified claims, an aggregate of claims during a specified period  
11 of time or an aggregate of claims under ~~any~~ *a* contract, agreement,  
12 or arrangement.

13 This section shall not affect the interpretation or provisions of  
14 Section 815.

15 The word “person” as used in this section includes, but is not  
16 limited to: employees, agents, brokers, representatives, general  
17 agents, managing general agents, surplus line brokers, insureds,  
18 coinsureds, adjusters, and independent contractors, but does not  
19 include attorneys in fact or other exclusive managers of an insurer.

20 This section does not apply to:

21 (a) Compensation of a producer, managing general agent, surplus  
22 line broker, or general agent under ~~any~~ *an* arrangement, agreement,  
23 or contract whereby the producer or general agent is not granted  
24 discretion in the actual adjustment or settlement of any or all  
25 individual claims settled for an amount exceeding five hundred  
26 dollars (\$500).

27 (b) A producer, managing general agent, surplus line broker, or  
28 general agent who is compensated by a contingent commission  
29 arrangement based wholly or partly on underwriting results, unless  
30 the arrangement guarantees an agreed return to the insurer ~~which~~  
31 *that* may exceed the underwriting profit actually earned by the  
32 insurer on business written through the producer, managing general  
33 agent, surplus line broker, or general agent.

34 (c) Contracts of reinsurance between insurers.

35 (d) An arrangement, schedule of charges, agreement, or contract,  
36 express or implied, for the adjustment of claims under which the  
37 compensation for the services of the person making the adjustment  
38 (exclusive of reimbursement for actual expenses) consistently  
39 increases, in reasonable brackets, as the amount paid in settlement  
40 of a claim increases.

1 An insurer—~~which~~ *that* in any other jurisdiction is making  
2 payments—~~which~~ *that* would be in violation of this section if made  
3 in respect to insurance business done in this state shall not be  
4 admitted to this state until it presents evidence satisfactory to the  
5 commissioner that it will not make—~~such~~ *those* payments in this  
6 state and that it will within one year after admission to this state  
7 cease to make—~~any—such~~ *those* payments in any other jurisdiction  
8 and, within the same period, terminate any contract or arrangement  
9 under which—~~such~~ *those* payments are to be paid. Failure to so cease  
10 ~~such~~ *those* payments and to so terminate—~~such~~ *those* contracts and  
11 arrangements within—~~such period of one year~~ *that one-year period*  
12 shall constitute grounds for revocation of the insurer's certificate  
13 of authority.

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